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ABSTRACT

This report is the first in a series of reviews of the structure and governance at Duke University. It consists of six parts. Part I gives a description of the existing organization and composition of the Board of Trustees. In Part II alternative trustee arrangements are considered. Part III makes recommendations concerning the proper role and responsibilities of the Board. These include: (1) providing for the determination of long range planning, institutional goals, and priorities; (2) appointing and providing for continuing evaluation of the university's principal executive, administrative, and academic officers upon appropriate consultation and recommendations and designated university committees; (3) securing the financial well-being of the institution; and (4) exercising residual responsibility for adequate coordination and governmental oversight of the university. In Part IV recommendations are made respecting the composition of the Board. Part V discusses the relationship between the Board and the university community. A summary of the analysis and recommendations is given in Part VI. (AF)

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DUKE UNIVERSITY

Commission on
University Governance

# Interim Report:
# THE BOARD OF TRUSTEES

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## Introduction

The Commission on University Governance was appointed by the Chancellor in October, 1969, to review the structure of governance at Duke University and to submit recommendations as it might deem appropriate. Membership on the Commission was drawn from the undergraduate and graduate student bodies, the Board of Trustees, the faculty, the alumni, and the administration to provide a heterogeneity of experience and perspectives in the discharge of the Commission's responsibilities. Early in its career, the Commission was advised by the Chancellor that initial consideration should appropriately be given to review and recommendations affecting the Board of Trustees as an accommodation of the Board's desire to consider its own reorganization early in 1970. Accordingly, this interim report limits its review and recommendations to the Board, and the subject is considered in the following six parts:

I. A description of the existing organization and composition of the Board.
II. A consideration of alternative trustee arrangements.
III. Recommendations respecting the proper role of the Board.
IV. Recommendations respecting the composition of the Board.
V. Recommendations respecting operational relationships between the Board and constituencies within the university.
VI. A summary of analysis and recommendations.

In order to present a report of sufficient compactness that it might be reviewed with reasonable economy, the Commission has reduced its use of collateral references to a bare minimum. Because elaborate footnoting and exegesis are deliberately avoided in this report, however, it may be appropriate by way of introduction briefly to review the scope of the Commission's studies as a reasonable indication of the materials it has taken into consideration before arriving at its particular conclusions.

Ours is by no means the first institutional self-study on university governance in recent years, nor is it the only one undertaken within Duke University. Recognizing that this was so, the Commission collected and reviewed nearly two dozen governance studies from public and private institutions which have appeared since the advent of the free speech movement at Berkeley, in 1964. Additionally, national and state surveys of trustee characteristics and attitudes have been

conducted within the past twelve months, and these too were appraised in setting the context within which a review of the Duke Board could be appreciated. Beyond this, major developments have also occurred in a number of other countries as an immediate consequence of major student unrest abroad, and the Commission has surveyed some of these comparative trends as well.

Ultimately, however, it became evident that the configuration of governance at Duke University depends most substantially upon Duke's own particular history, practical constraints, and needs. Thus, the greater proportion of the Commission's study concentrated on an understanding of the history and current environment of this university. Specifically, this portion of our study has benefited from the lengthy and able draft report by a committee of the Board appointed last spring, under the chairmanship of Dr. Brantley Watson, as a self-study to propose certain revisions in the operation and composition of the Board. To a lesser extent, it has benefited as well from the succinct report of the Academic Council concerned with faculty relations and possible participation on the Board. It has included a review of the Indenture of Trust, the University Charter, the Bylaws, the history of the Board, and a synopsis of the Board's actual operation as reflected by its agenda in recent years and a resume of its Minutes. In the course of a dozen working sessions, the Commission has held extensive hearings with a number of trustees, the Chancellor, Provost, Vice President for Business and Finance and others immediately familiar with executive operations at Duke, and we have actively solicited the suggestions of all members of the university community who would wish to be heard.

All of this has been extraordinarily helpful to the Commission, and we are grateful for the co-operation which we have received. At the same time, it should also be acknowledged that this report represents the Commission's own deliberations and determinations for which it accepts complete responsibility.

## PART I
### Description of the Board of Trustees

As described in the Charter of Duke University, the Board of Trustees constitute a corporation "invested with all the property and rights of property [of the University] and said corporation shall henceforth and perpetually...hold and use all the authority, privileges, and possession...and be subject to all recognized legal liabilities and obligations now outstanding against such corporation." The Charter further provides that the "Trustees shall have the power to make such rules, regulations, bylaws...as may be necessary for the good government of said University and the management of the property and funds of the same." It also specifies that "the Trustees shall be thirty-six in number of whom twelve shall be elected by the North Carolina Conference of the M.E. Church, South, twelve by the W.N.C. Conference of the said church; and twelve by the graduates of said University." In no respect does the Charter restrict eligibility for membership on the Board of Trustees. Finally, it provides that the Board shall have the power "to elect a president and professors for said University, to appoint an executive committee to consist of not less than seven members, which committee shall control the internal regulations of said University and fix all salaries and emoluments, and to do all other things necessary for an institution of learning not inconsistent with the laws of this State and of the United States."

The University Bylaws, subject to amendment by affirmative vote of two-thirds of the Board, develop a number of these descriptions more explicitly. They state that "all powers of the University shall be vested in a Board of Trustees consisting of thirty-six members," with the sole disqualification from membership being that no one may be elected a Trustee who has attained the age of seventy prior to his election. In addition to the Executive Committee, the Bylaws establish three other standing committees: Building and Grounds, Institutional Advancement, and a University Committee. The Executive Committee consists of the Chairman of the Board, the President of the University, and "not less than five Trustees," this minimum complement currently describing the Committee. The Committee is empowered to "control the internal regulations of the University; fix all salaries, emoluments and other allowances; approve annual budget and authorize the annual audit...exercise all powers of the Board of Trustees in the interim

[between its three regular meetings plus such special meetings as may be called each year]...[and] act as the Nominating Committee for the election of the Trustees" who, as required by the Charter, must first be recommended by a majority of the Board prior to election by the Methodist Conferences or the alumni. The Executive Committee also appoints the Investment Committee and the Budget and Audit Committee and defines their powers.

An important additional factor in the legal structure within which Duke University operates is established by the original Indenture of Trust. It provides that the Trustees of the Duke Endowment (distinct from the Trustees of Duke University) are to pay to Duke University a set percentage of the Endowment income, "so long as its name shall be Duke University and it shall not be operated for private gain," provided, however, that the Endowment Trustees "may withhold the whole or any part of such percentage from such institution" in case it "be not operated in a manner calculated to achieve the results intended" by the Indenture as determined by the Endowment Trustees.

The only direct association between the university trustees and the university community recognized by the Charter is through the President. The Bylaws expand upon this by providing for limited contact of standing Board committees, *e.g.*, with the Vice President for Business and Finance (in the Building and Grounds Committee and the Budget and Audit Committee), the Provost (in the University Committee), and unspecified university personnel through the Budget and Audit Committee and the Investment Committee.

The actual composition and functioning of the Board are not fully reflected in these legal descriptions. For instance, it is disarmingly true that neither the Indenture of Trust, the Charter, nor the applicable state statute restricts eligibility for membership, and the Bylaws do so only in the single respect of disqualifying a person from election to the Board after he becomes seventy years old. In fact, however, the Board is relatively homogeneous. Twenty of the thirty-six members are from North Carolina. Fifty per cent of the Board are more than sixty years old, and all but three are more than fifty. Fifteen are businessmen, five are from foundations, four are lawyers, and only two are primarily in education—each of these principally in administration. All thirty-six are white, and all but three are men. State and national surveys by the Educational Testing Service report that the trustee profile of most predominantly white private institutions is similar to our own, except

that the average age of the Duke trustees is somewhat older and the proportion of local residents for an academically selective private institution somewhat higher than the average. (Simultaneously, it is also true that unrest experienced at Duke is characteristic of universities throughout the country, most especially in the large, highly selective private institutions.) A unique feature of Board membership at Duke exists in the overlapping membership of several trustees on the University Board and the Board of the Duke Endowment.

In the actual operation of the Board, it is clear that contacts exist between the trustees and the university community in addition to those specified in the Charter and Bylaws. Some of these are formal (*e.g.*, the recently revived trustee-faculty liaison committee), but most are informal and correspondingly difficult to assess.

The relationship between the Board and the conferences of the Methodist Church is substantially different from the implications of the Charter, as each conference has traditionally approved the single choice of candidates recommended by the Board for its nominal ratification. Thus the Board in fact has been substantially self-perpetuating. In respect to election of Board members by the Alumni Association, a choice of four from among eight recommended by the Board has been made by mail ballot, although the Bylaws do not require even this degree of choice to be offered to the alumni.

The one place where legal descriptions and operating realities fully agree is in the Executive Committee of the Board which, for many practical purposes, is the Board of Trustees. Serving as the nominating committee, it proposes those whom the Board then recommends for election to the Board. Meeting monthly and acting for the Board in the interim between the three regular meetings of the Board, the Executive Committee exercises most of the full powers most of the time. The Committee, in the words of the Chariman of the Board himself, has too many things to do. In effect, partly through the energy, concern, and proximity of its members, the Executive Committee *is* the Board of Trustees, and the full Board, partly for reasons of size, distance, time between meetings, and limited self-investment of some of its members, has accepted the lesser function of review and approval.

The consequences of overlapping membership by several trustees on the Board of the Duke Endowment and the Board of Trustees remain undetermined, as the Commission is frank to admit. Given the continuing dependence of the university not merely upon the

preassigned portion of Endowment income earmarked for Duke but upon the willingness of the Endowment to extend financial support beyond this portion, it may well be the case that the inclusion of several Endowment trustees on the Duke Board provides a desirable means of maintaining a close and amicable association enabling the Endowment to appreciate the needs of the university. Interviews with trustees suggested, moreover, that Endowment trustees have not sought to exercise the leverage of their position unduly to influence decisions of the Board—that individual trustee influence within the board is substantially a matter of personal energy and character rather than financial leverage, and that in rare instances of disagreement on principal issues endowment trustees tend to be on the prevailing side with no greater frequency than others. Our information is incomplete on this subject, however, and contrary suggestions were heard by the Commission that the direction of Duke University may sometimes be influenced more by decisions in New York than in Durham.

Several difficulties or potential difficulties may be associated with the Duke arrangement, some of which were specifically noted by trustees and administrators in the course of the Commission hearings. First, the size of the Board contributes to the felt necessity for the unusual concentration of primary authority in the Executive Committee. Second, formal election of two-thirds of the Board by the Methodist Conferences implies a powerful church influence on the university—an influence much diminished in fact because of the key role of the Executive Committee which selects nominees for approval by the Board which forwards a single slate for conference ratification. Third, a comparison of trustee selection processes and Board profile strongly indicates that the fact of closely-held self-pertuation reinforces a natural tendency for "like to select like," resulting in a vastly greater degree of homogeneity on the Board than that which characterizes the university in general. Fourth, the fact of fiscal dependency on the discretionary decisions of the Duke Endowment may be seen as a major potential threat to the autonomy of the university. Inclusion of Endowment trustees on the Duke Board may provide additional opportunities for undue influence, a consideration to be weighed against the undoubted value of their good will and the judgment that their informed presence on the Board reduces the risk that Endowment action might be taken in ignorance of the situation within the university.

## PART II
### Alternative Trustee Arrangements

It becomes evident upon review of trustee arrangements in other American universities that the arrangement contemplated in the Duke Indenture, Charter and Bylaws is not the only one possible. In fact, it is in certain respects unique. University Boards of Trustees (or Regents) vary in size from six to more than one hundred. Although most possess a general residual authority of governmental oversight, few have power as great as that given to the Duke trustees. The methods of selection among other institutions differ greatly, some trustees being self-perpetuating, other being popularly elected by a constituency or constituencies from slates chosen by persons outside the Board, others selected by legislative bodies, and others appointed by governors. The Duke Board is remarkable in the way it is chosen, being essentially self-perpetuating but having three nominal constituencies which ratify the choices made. (This is wholly true of election by the Methodist Conferences, and approximately correct with respect to the alumni association. In the case of the alumni, a list of twelve nominees is submitted by the National Council of the Alumni Association to the Executive Committee of the Board which prepares a list of eight [not necessarily from the submitted list], from which four are elected by mail ballot.) The fiscal responsibilities of most private university boards of trustees are customarily more all-encompassing than those at Duke; no other university appears to have quite the same kind of relationship as Duke has to the Duke Endowment.

Beyond this, while the location of ultimate university authority in a corporate board of trustees is generally "the American way," *i.e.*, characteristic of virtually all legal arrangements of institutions of higher education in the United States, it is clearly not the only way. What is probably a majority of universities in Europe operate without boards of trustees, many locating ultimate university authority in the faculty (usually the senior faculty), some retaining faculty authority but utilizing governmental review in connection with public assistance, and others reflecting a definite trend (as in Italy and France) to share major areas of authority with students. Direct university governmental participation by nonacademic employees, on the other hand, remains exceedingly rare. Rather, their interests tend to be advanced through strong trade unions plus the provision of public laws guaranteeing

collective bargaining in fact and, in some instances, compulsory arbitration.

The Commission is clear that were we to begin anew literally to organize the agency in which "all powers of the University" are vested, we would not create the current structure as a legal description. Nonetheless, there are several reasons why we do not propose a radical alteration of the Charter at this time. First, alterations in the Charter necessarily involve a legal process itself arduous and time consuming and, like other constitutional changes, are desirable to avoid except for compelling reasons. Second, essential changes to redefine the function and composition of the Board and its operating procedures, we believe, be accomplished through amendments to the Bylaws alone. Third, unless current legal descriptions which appear potentially menacing on paper (*e.g.*, the theoretical electoral influence of the Methodist conferences) have been menacing in fact or at least provide a substantial basis for anxiety in the forseeable future, proposed constitutional alterations may tend only to strike blows against issues of straw while carrying a great risk of alienating the affections and good will of many whose friendly support deserves to be encouraged in an institution which is not, after all, financially independent.

The principal problem areas, within the range of solution by amendment to the Bylaws and actual practices of the Board, are these. The fact that the Board is self-perpetuating from nominees essentially selected by the Executive Committee alone has yielded undue homogeneity and an undesirable difference in perspective between a portion of the Board and the university community. Improvement in communication (to which we shall address ourselves in Part V specifically) may be necessary and helpful, but there is also a distinct and separate need to reflect a greater degree of the same heterogeneity which characterizes the university in general within the profile of its own trustees. Concentration of all operative responsibilities in the Executive Committee overburdens that Committee and under-utilizes additional resources within the university and the Board. The configuration of Board committees requires reassessment and revision as suggested hereafter, more evenly to redistribute responsibilties, more substantially to utilize resources of governance within the university, and more ably to give attention to long range tasks (*e.g.*, long range planning and development of institutional priorities)while appropriately disengaging the Board from intramural concerns where a strong case can

be made for more conclusive delegation to administrative, student and faculty groups.

We believe that the matter of the role of the Duke Endowment is a potential problem of serious proportions but one which exists apart from governance arrangements due to the financial dependency of the university and the power of the Endowment trustees provided for in the Trust Indenture. At present, however, there is little evidence that Endowment trustees have acted with any less good will or disinterest than others. If the University Board adopts a clear set of goals and priorities which are known to the Endowment Trustees (either through joint membership or in some other way), there seems to be little reason to expect resistance on the part of the Endowment.

Finally, what may be seen by many within the university as too close a governance by the Board generally can be avoided by a redefinition of the Board's role and the development of greater governance capacity within the university. So far as the immediate past is concerned the Commission has found that the unusual assistance of the Chairman of the Board and of the Executive Committee has been viewed gratefully during the months we have lacked a president.

In view of these considerations, we have limited our specific recommendations to those which can be accomplished without change in (or evasion of) the conditions established by the Indenture or the Charter. Although a number of our recommendations will require changes in the University Bylaws, such changes can be effected by a two-thirds vote of the Board of Trustees without recourse to extramural legal processes.

## PART III
## Recommendations Respecting the Functions of the Board

Although "all powers of the University" are legally vested in the Board, we found no indication that the Board desired or felt able literally to control *all* of the decisions and activities within the university. The case against total management is too clear and sufficiently well accepted to warrant lengthy comment. Our investigations did yield essentially three different conceptions of boards of trustees, however, and a brief abstraction of each of these models may serve to define the context for our recommendations about the proper role of the Board of Trustees of Duke University. Specifically, boards of trustees tend to be seen primarily as "controlling," "supportive," or "passive."

A controlling board is one which attempts to maintain a direct, pervasive, and continuing influence on all major activities within the university. If a question of academic freedom arises, the Board presumes to decide it. If a student demonstration occurs, the Board directs the course of disciplinary action. If financial problems develop, the Board instructs the fiscal officers of the university on how to handle them. The controlling board historically has been most characteristic of small denominational colleges and community colleges. Its appearance at Duke has been episodic, and the model pretty well states its own shortcomings. It is dispiriting to all other decision making elements, making it nearly impossible to develop consistent programs and to maintain high levels of personal involvement in the internal direction and management of the university. Competent administration is unlikely under such circumstances. Practically, a board of trustees is unable to maintain continuing involvement in all such issues and thus its actions tends to be somewhat uninformed, intrinsically precipitate, and occasionally arbitrary.

The passive board characteristic of institutions where trustee positions are viewed largely as honorific (except when the sensationalism of political issues of public note goad the trustees to intervene), effectively abdicates its legal authority by passive acquiescence in whatever proposals may be brought to it by the university administration. Such an arrangement tends to make the administration the autonomous body. Evaluation of the administration

by the board cannot occur except in extreme cases for want of sufficient information and continuity. Effective planning is left entirely to internal sources. At the same time, since potentially valuable contributions from the Board are discouraged by its own passivity, the situation makes it unlikely that able people will be encouraged to serve. Sought primarily as a sinecure, trusteeship under these circumstances is at best harmless but scarcely useful. Finally, an administration left wholly autonomous because of board passivity may very easily become unresponsive to the expressed needs of other parts of the university as well.

These are, of course, somewhat overdrawn caricatures useful principally to provide a better understanding of the supportive board we mean to encourage and more specifically to define at Duke. The supportive board neither involves itself in the day-to-day affairs of the university nor abdicates its responsibilities for institutional development, the determination of ultimate priorities, fiscal support, and administrative review. It remains informed, but it does not dominate. In order to stay informed, it establishes arrangements for regular contact with all elements in the university—the faculty, students, and employees as well as the administration. Since it is legally responsible for the appointment and evaluation of the administration, it is important that it be informed not only about the administration itself but also about the areas of responsibility of that administration. Information respecting other levels of operation is provided to assure an understanding review of administration itself, but direct control and influence are not exerted downward.

Given a supportive board, what are its primary responsibilities? First, the board must fully assume the responsibility to generate institutional development of long range goals and priorities—an area which we believe is currently *not* sufficiently emphasized at Duke. Such planning is not a single, one-time undertaking but a continuous task where new events need to be appraised and changes introduced as they become necessary or desirable. Second, given the accountability of the President and his senior administrative officers to the board for the adequacy of their stewardship, the responsibilities and expectations of these offices need clearly to be defined, the scope of their authority specifically described, and provision made to assure substantial support in their duties. Third, a supportive board, especially at a private institution, has primary responsibility for the financial well being of the

university. Correspondingly, it must provide for adequate review and accounting by the principal fiscal officers of the University. Fourth, the supportive board should maintain a residual responsibility for overall coordination and governmental oversight in order that institutional development does not become unbalanced among different programs, departments, or colleges.

We found almost unanimous agreement not only on the concept of the supportive board, but also on this enumeration of the Board's primary responsibilities. What we have attempted to do in light of this agreement is to specify the means through which the Board can function in this way. The important questions are how a board of trustees legally constituted in the manner outlined in the previous section can be provided with the necessary information and understanding to carry out its responsibilities, and how it can be composed to assure that there is no broad gap between the perception of the board and that of the university community itself. We believe that these questions can be answered both by careful attention to the composition of the Board and by various mechanisms designed to maintain regular contact between smaller components of the Board and the rest of the university community. These two issues are discussed in the next two sections.

## PART IV
### Recommendations Respecting the Composition of the Board

Members of the Board and members of the administration broadly agreed that the university may be better served in the long run by providing means for a more diverse membership on the Board of Trustees. The Watson Committee Report reaches a similar conclusion, and our own review of the membership profile, other institutional studies, and national and state surveys yielded the same conclusion. To be sure, special functions of the Board (*e.g.*, to secure financial support for the university) make it perfectly clear that membership ought not woodenly repeat a flat cross-section of social characteristics of some other randomly selected group, but it *is* clear that desirable functions of the Duke Board should embrace a more heterogeneous membership than that which the current process of selection has tended to produce. Some have seen this in terms of a need for more "university people;" other in terms of a need for a larger number of younger people; still others in terms of additional areas of the country to be more fully represented if Duke is to be a truly national university. In any event, the theme of greater heterogeneity was a persistent one—not for its own sake but because of a shared view that homogeneity limits the perspectives and attitudes according to which all information available to the Board may be viewed, evaluated, and composed in important decisions.

The primary factor that has determined the composition of the Board is the selection process itself since, as we have noted, there are no existing formal restraints of any kind (other than being over seventy) on eligibility for membership to the Board. A Negro, a professor of economics from Stanford, a trade unionist, a Senator from Maine, or a senior at Duke could be elected. But there is none on the Board. The present method of nomination involves current members only (except for nonbinding suggestions of the Alumni Council), and it is not surprising that nominees are in most respects similar to those making the nominations. We believe that a broader source of suggestions would provide the basis for a healthier diversity so many see as desirable.

The most effective way to provide that source is through the reconstitution of the Nominating Committee. Since all candidates proposed by the Committee would necessarily be reviewed by the whole Board as at present, there would still be Board control over the

ultimate list of nominees, but a Nominating Committee composed of persons a greater proportion of whom are more nearly representative of diverse perspectives within the university would doubtless assure the availability of a far wider choice of nominees.

Specifically, we propose that the Nominating Committee consist of four trustees, two members of the faculty, and two members of the student body. We further propose that the trustees selected to serve on the Nominating Committee as well as the members of the faculty and student body be chosen by their respective constituencies rather than by any single agency. Although the choice of the trustee members would be made by the Board as it deems best, we would urge that they not automatically be drawn from the Executive Committee but be chosen by the Board especially for this task. Similarly, although the choice of faculty and student representatives would be made in whatever way these two elements of the university community might choose, we would suggest that a popular election would be a less effective means than appointment by representative bodies.

The Commission long considered the desirability of altering the composition of the Board through mandatory inclusion of one or more student and faculty members instead, and it needs to be said that several members of the Commission believe that this remains a desirable proposal either as an alternative or as an addition to our recommendation for restructuring the Nominating Committee to make it more representative. We have rejected this proposal at the present time on the grounds that it would unduly rigidify the selection process and because it smacked of "tokenism." A student who becomes a trustee obviously cannot normally complete a full six-year term of office while still a student, and may relocate so far from Duke under economic conditions and altered interests as not necessarily to be in a position to contribute to the Board. On the other hand, to provide that a student may serve a shorter period, as one year as proposed by the Watson Committee, creates entirely too brief a tenure: it may indeed fail to provide sufficient time for the student to assume a useful role on the Board, it may inadvertently put pressure upon him to generate "instant" ideas, and it tends otherwise to imply the token nature of his special status. Moreover, a proposal for specific but minimum faculty and student presence on the board does little to promote additional diversity, and it implies that no greater number of persons from within the university should ever be considered for membership. Finally, while

more generous inclusion of trustees with greater academic experience, social exposure, and a more immediate identification with the needs of students and disadvantaged groups is essential, it is not a safe assumption that these sensitivities can be found solely within our own student and faculty bodies. Modification of the nominating process to provide a new complement of talent wherever it may be found may also avoid the risk that the categorical representation of trustees from constituencies within Duke University involves some danger of conflict of interests and a temptation to carry problems to the campus member of the Board privately, rather than through regularly established governance bodies.

The designation of categorical representation on governance bodies is not, moreover, characteristic even of democratic assemblies. Although attractive in this case because it would insure student and faculty membership at all times, it fails to provide the type of mechanism needed for continuous long range self improvement by the Board on a broader basis. We believe strongly that the proposed alteration in the nomination process will provide a far more sensitive mechanism and that it will indeed achieve the purposes sought by the alternative approach of requiring student and faculty membership on the Board of Trustees.

In keeping with both the goal of diversity of Board membership and the expectation that the Board members will become more actively engaged in exchanges with other constituencies of the University, we do endorse the proposal made by the Watson Committee respecting the age of retirement. We believe that an active Board should adopt the same principle of retirement it applies to an active administration. At Duke, the administrative officers are required to relinquish office at age sixty-five; this same general rule appears equally reasonable for trustees. Since a trustee is elected for a six-year term, it may be most reasonable to require retirement at the end of the term in which a trustee reaches his sixty-fifth birthday, without exception for the Chairman and Vice Chairman of the board who must, after all, carry a major burden in those offices. Recognition of distinguished service and the value of continuing contributions can be provided for through emeritus status. Emeritus trustees, however, should not serve on Board committees except in an ex officio capacity.

In keeping with the same principles which underlie our other recommendations, we also propose that the term of office of a trustee

be limited to two consecutive six-year terms. Only in exceptional cases should persons who have served two terms be considered again for nomination, and then only after at least a two-year period of ineligibility.

There are three additional proposals relevant to the issue of providing the Board with an enriched diversity of perspective and talent. First, in addition to the diversity in Board membership contemplated by the reconstituted nominating procedure, the Board should appoint a Board of Visitors composed principally of distinguished academicians who would visit the campus on occasion and then report their impressions and recommendations to the Board and the administration. The external view provided informally by this means may serve to point up issues and possibilities not as readily discernible to those most closely involved in the on-going program.

Second, while not critical, it may now be appropriate to remove the uncertainty of the President's ex officio membership on the Board by establishing his regular membership. Although we recognize that a president's position with the Board does not require that he be a member, we also recognize that the university's chief executive should have no uncertainty or hesitation in participating in Board meetings and should not be faced with the risk of exclusion from meetings by executive session. It thus seems most reasonable to specify that the President shall be a member of the Board, recusing himself only from those discussions and decisions specifically concerned with his own status.

Third, the same reasoning leads us also to suggest that meetings of both the full Board and of the Executive Committee might appropriately include, as ex officio members, the Chancellor, the Provost, and the Vice President for Business and Finance. By this means too, the Board may more regularly be assured of an informed understanding of the essential administrative, academic, and financial affairs of the university than the President could hope to furnish alone.

## PART V
## The Board and the University Community

Throughout this report, we have been concerned with the general issue of the role of the Board in the overall functioning of the university. We have noted the totality of legal power of the Board and the necessity for it to delegate much of that power to other elements of the university. We have also emphasized the great need for the Board to remain informed about the functioning of the university. We have noted the totality of legal power of the Board and the necessity for it to delegate much of that power to other elements of the university. We have also emphasized the great need for the Board to remain informed about the functioning of the university and its need for an improved perspective to interpret the information it receives. Our recommendations thus far have all been designed to provide the Board with an invigorated depth and breadth of perspective which should make the interpretation of available information more effective. A supportive board, however, has that delicate problem referred to earlier: how can it remain informed and supportive without at the same time involving itself too directly and intimately in the on-going business of the university?

Virtually everyone with whom we discussed the Board emphasized that its critical work is carried out by its committees. Correspondingly, the answer to the question just posed is widely believed to be associated with the composition, responsibility, and operation of those committees. While we believe that the ordering of Board committees generally requires a flexibility better left to the Board's own determination, our concern for the relations between the Board and the rest of the university community nonetheless leads us to offer certain comments and recommendations.

First, in one important respect, we have concluded that the Board may have been insufficiently responsible rather than unduly involved in one important area of trusteeship—the area of long range planning and the establishment of institutional priorities. Not only is this one of the most important functions of a responsible Board, but it appears that within the past several years no single agency has undertaken the task or provided even a general vision of the future of Duke University apart from what may be dimly implied by an uncertain pattern of capital improvements. We believe that the Board of Trustees, through a

standing committee on long range planning and institutional goals, should assume leadership responsibility for this matter. In order that such plans may profit from the ideas and expertise of those more intimately involved in the academic program, however, this committee as a part of its regular membership should have representatives from the faculty and student body, as well as administration. Such participation may also strengthen the sense of commitment on the part of these elements of the university community, permitting a given plan accurately to be seen as "our" plan rather than "their" plan.

Second, our earlier discussion of the powerful and overburdened role of the Executive Committee also suggests a more effective means of providing significant Board contributions to the work of the university. All important Board committees should be committees of the full Board, selected by it and reporting to it. Even with as much decentralization as possible, the Executive Committee will still have a great deal to do as the interim representative of the full Board between occasional meetings.

To this point, our comments about Board committees are fully in accord with the draft recommendations of the Watson Committee. However, that Committee, by the definition of its function, focused essentially on the Board and ways to make it more effective. This Commission, also by the definition of its function, must view the Board in the context of the whole university. This has led us to a somewhat different view of some issues relevant to committee structure, even though we feel confident that there is no significant difference between the goals sought by the Watson Committee and those sought by this Commission. As we see that draft Report, one of its basic efforts is to provide those administrative officers to whom the Board delegates much of its legal authority with continuing trustee support while at the same time keeping the trustees informed of the current state of affairs within the area of each administrator's authority. This is exactly what a supportive Board needs to do–but in the context of the larger university structure as well.

Specifically, Board committees ought not be proliferated beyond the need to inform the Board in respect to its basic supportive functions as previously described. Second, in keeping with the principle of a supportive Board, as well as the need for the faculty and students to contribute proportionately according to the assignment of each committee, the committee structure may sensibly be linked to the

specific administrative officers and charged to provide advice and a communication link between the Board and the rest of the university. Accordingly, a partial configuration of committees of the Board of Trustees might appropriately be drawn as follows:

1. The Committee on Long Range Planning, consisting of three trustees, two faculty members, two students, and the President and Chancellor ex officio, as previously discussed.

2. The Committee on Academic Affairs, consisting of four faculty members, two trustees, and two students, with the Provost ex officio.

3. The Committee on Finance and Business Affairs, consisting of four trustees, two faculty members, one student, and the Vice President for Business and Finance ex officio.

4. The Committee on Institutional Advancement, consisting of four trustees, two alumni, one faculty member, one student, and the Vice President for Institutional Advancement ex officio.

5. The Committee on University Life, consisting of four students, two trustees, two members of the faculty, and the Vice President of Student Affairs (or the ranking administrative official with responsibility in this area) ex officio.

Each committee shall have a chairman and a vice chairman, one of whom shall be a trustee. To insure appropriate linkage between these committees and the Executive Committee, one of the trustee members of each committee should also be a member of the Executive Committee. Although the choice of faculty and student representatives would be made in whatever way these two elements of the university community might choose, we would suggest that a popular election would be a less effective means than appointment by representative bodies. In any case, as was noted in respect to the Nominating Committee, the student and faculty membership should not be a selection of the Board itself.

Such a committee structure should provide a better basis for university-wide support and evaluation, insure involvement in proportion to expertise and concern, co-ordinate information in keeping with administrative arrangements and the interim responsibilities of the Executive Committee, and improve communication. We believe that these recommendations are consistent with the goals of the Watson Committee.

## PART VI
### Summary of Analysis and Recommendations

The analysis and proposals in the preceding sections have been based on the following considerations: (1) Although the legal definition of the position and structure of the Board of Trustees implied in the Indenture of Trust and Charter of Duke University is not ideal, it is possible to provide for effective Board functioning through amendments to the Bylaws alone. (2) The desirable model of trusteeship is that of an informed and essentially supportive Board. (3) Provision for that Board requires a major delegation of internal responsibilities to elements within the university, overall composition of the Board in a manner which provides a broad perspective in the exercise of its own authority, and an organizational structure capable of yielding adequate information and a diversity of perspectives conducive to adequate evaluation of that information.

All of our recommendations are designed to provide the context within which the Board of Trustees may most effectively carry out its crucial functions within the university. These recommendations are:

1. The principal responsibilities of the Board of Trustees should be defined to include the following:
   a. To provide for the determination of long range planning, institutional goals, and priorities;
   b. To appoint and to provide for continuing evaluation of the university's principal executive, administrative, and academic officers upon appropriate consultation and recommendations of designated university committees;
   c. To secure the financial well being of the institution;
   d. To exercise residual responsibility for adequate coordination and governmental oversight of the university.

2. Diversity in Board membership should be developed through reconstituting the Nominating Committee to be composed of four trustees, two faculty members, and two students with authority to propose nominations for Board approval and election.

3. In keeping with existing standards respecting administrative service, provision should be made for trustee retirement at age sixty-five subject to ex officio emeritus status in particular cases.

4. The term of trustee office should be limited to two six-year terms, with renewed eligibility only after a minimum of two years absence of membership.

5. The President should be designated a regular member of the Board.

6. The Chancellor, Provost, and Vice President for Business and Finance should be made ex officio members of the Board.

7. A Board of Visitors of distinguished academicians not otherwise associated with the university should be provided for.

8. A standing committee on long range planning and institutional goals should be established with regular membership drawn from the faculty, student body, administration and trustees.

9. Additional standing committees should be co-ordinated with the principal administrative and academic offices of the university, with regular faculty and student members in varying proportion according to the assignment of each committee.

10. The standing committees should be committees of the full Board, reporting to the Board, with one of their trustee members also serving on the Executive Committee of the Board.

11. The standing committees should be defined as advisory, and authorized to submit recommendations either to the Board or to other groups within the area of their concern, but not otherwise possessed of decision-making authority.

Finally, while we would hope that all of these recommendations would be favorably received by the university community and favorably acted upon by the Board of Trustees, three of the recommendations in particular are regarded by the Commission as

especially crucial. Specifically, the recommendations contemplating reconstitution of the Nominating Committee, reconstitution of the standing committees, and more adequate provision for the development of institutional goals, planning, and priorities. The infusion of broader perspectives and a solemn inventory of the future require our earnest and common support.

Respectfully submitted,

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THE COMMISSION ON UNIVERSITY GOVERNANCE

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